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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,569	02/13/2002	Rudolph V. Bailey SR.		9894

7590 09/29/2003

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EXAMINER

AGUIRRECHEA, JAYDI A

ART UNIT PAPER NUMBER

2834

DATE MAILED: 09/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/075,569	BAILEY, RUDOLPH V.
	Examiner Jaydi A. Aguirrechea	Art Unit 2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 August 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 is/are pending in the application.
 - 4a) Of the above claim(s) is/are withdrawn from consideration.
 - 5) Claim(s) is/are allowed.
 - 6) Claim(s) 1 is/are rejected.
 - 7) Claim(s) is/are objected to.
 - 8) Claim(s) are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. .
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). <u> </u>
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u> </u> .	6) <input type="checkbox"/> Other: <u> </u>

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claim describes a system that operates perpetually without any source of power. It is not clear how the proposed system manages the inherent internal operating losses to function indefinitely.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1 is rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility.

The proposed perpetual motion cycle does not take into consideration that the energy inputted to the electric motor is transformed into at least mechanical and heat energy. The mechanical energy is outputted through the motor shaft and the heat energy is transmitted through at least the friction existing between moving pads like the bearings and the gears. As soon as the initial inputted source of energy is disconnected from the electric

motor, the energy received from the generator will be transformed into at least mechanical and heat energy in the electric motor and gears. Therefore, the mechanical energy provided by the electric motor to the generator will continuously be less than the energy the generator is providing to the electric motor, until the system comes to a stop.

Response to Arguments

3. Applicant's arguments filed on August 20, 2003 have been fully considered but they are not persuasive. In response to applicant's argument to the 101 and 112 rejections, it is the examiner's position that a perpetual motion machine violates the laws of conservation of energy. During the operation of the system, energy will be lost due to friction heat, therefore it will be unable to operate perpetually.

4. The applicant is required to supply a working model of the invention to establish the operability of the device. (See 37 CFR 1.93).

5. No prior ad has been applied to the claims at this time. Prior Art will be applied to the claims when a working model and an enabling disclosure have been provided.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaydi A. Aguirrechea whose telephone number is 703-305-2277. The examiner can normally be reached on M-Th 9-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on 703-308-1371. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

[Signature]
AA
9/21/03

[Signature]

KARL TAMAI
PRIMARY EXAMINER